

1 provided with the 70-6 in 1978?

2 A. I believe it was orange.

3 Q. And I would ask you to assume because I  
4 have other photographs that the opening of this  
5 orange foot pedal is open, you can slide your foot  
6 right in and then there's a pedal?

7 MR. ROBINSON: I'll object to the form of this.

8 BY MR. HARTMAN:

9 Q. If you assume that would that foot pedal  
10 be the type of foot pedal that would have been  
11 supplied with the 70-6 in 1978?

12 If you assume that this foot pedal has an  
13 opening at the front of it where the operator just  
14 slides their foot in and can hit the pedal, would  
15 that be the type of foot pedal that would have been  
16 supplied with the brake press in 1978?

17 MR. ROBINSON: I'll object to the form of the  
18 question. Are you asking him if the foot pedal  
19 that was supplied with the press brake in 1978 had  
20 an opening.

21 MR. HARTMAN: Okay, yes.

22 THE WITNESS: I would make that assumption,  
23 yes.

24

1 BY MR. HARTMAN:

2 Q. You testified earlier it did.

3 MR. ROBINSON: No, he's actually indicated to  
4 you earlier that he wasn't working there at this  
5 time frame.

6 MR. HARTMAN: Paul, go ahead.

7 MR. ROBINSON: He's indicated he doesn't know.

8 MR. HARTMAN: Raise your right hand and swear  
9 in. I'd love to ask you the questions.

10 MR. ROBINSON: That's kind of unnecessary.

11 MR. HARTMAN: Everything you've said in the  
12 Paschen half hour --

13 MR. ROBINSON: There's no need for us to debate  
14 this issue now.

15 MR. HARTMAN: Let's move on.

16 MR. ROBINSON: Please don't be offended by my  
17 need to raise objections to the way you're asking  
18 questions.

19 MR. HARTMAN: I'm not offended.

20 MR. ROBINSON: Please don't feel the need to  
21 make personal comments like you've just made into  
22 the smart variety when we raised this objection.  
23 You know what the rules permit you to do.

24 MR. HARTMAN: You're being obstructionist.

1 MR. ROBINSON: No, I don't think there's --

2 BY MR. HARTMAN:

3 Q. The original foot pedal was orange?

4 A. Was what?

5 Q. Was orange.

6 A. I believe that was so.

7 Q. Did it have a yellow cord attached to it?

8 A. Not certain but I wouldn't be surprised if  
9 it was yellow.

10 MR. ROBINSON: He's asking you if you know if  
11 it was orange and if it had a yellow cord in 1978.

12 MR. HARTMAN: He said he believes it did.

13 MR. ROBINSON: He's asking if you know these  
14 things, Mr. Mase.

15 THE WITNESS: I don't know.

16 BY MR. HARTMAN:

17 Q. And in 1978 foot pedals were basically  
18 commodities, correct?

19 A. Yes.

20 Q. There was no special design utilized by  
21 Heim other than it had a cover, it was covered, you  
22 slid your foot in, hit the pedal and let it go,  
23 correct?

24 MR. ROBINSON: I object to the form.

1 THE WITNESS: I believe that's accurate.

2 BY MR. HARTMAN:

3 Q. It didn't have a device that prevented you  
4 from sliding your foot in in 1978?

5 MR. ROBINSON: Object to the form of the  
6 question.

7 THE WITNESS: Don't know for sure.

8 BY MR. HARTMAN:

9 Q. The foot pedal you have now does have that  
10 type of device, correct?

11 A. I believe that's correct.

12 Q. And that device is a safer device,  
13 correct?

14 A. Correct.

15 Q. And that device prevents someone from  
16 accidentally sliding their foot in and activating  
17 the press brake?

18 MR. ROBINSON: I'll object to the form of the  
19 question. What circumstance?

20 BY MR. HARTMAN:

21 Q. It's designed to protect against the  
22 operator from sliding their foot in inadvertently  
23 and hitting it?

24 MR. ROBINSON: That's a different question.

1 Designed to prevent.

2 THE WITNESS: Correct.

3 BY MR. HARTMAN:

4 Q. So that I have a clear question, am I  
5 correct that the new foot pedal is designed to  
6 prevent the operator from accidentally sliding his  
7 or her foot into the housing and operating the foot  
8 pedal?

9 A. Correct.

10 Q. I'm going to show you photograph number  
11 38, have you had an opportunity to look at that,  
12 sir?

13 A. I just briefly saw it before, not in a  
14 colored version.

15 Q. Would you agree that that's a tooling set  
16 up for the 70-6?

17 A. Its a tooling set up, but I'm making the  
18 assumption it's in the 70-6, yes.

19 Q. When you look at that, is there anything  
20 that you see that is incorrect about the set up of  
21 the tooling in that photograph?

22 MR. ROBINSON: Yeah. Objection, he's not  
23 answering. Now you have him being an expert in  
24 tooling and dyeing and he is not an expert in that

1 area and he's not here as an expert in that area.

2 So he will not be answering that question.

3 BY MR. HARTMAN:

4 Q. Sir, in your years of sales experience,  
5 have you worked with manufacturers to determine how  
6 to set up dyes and press brakes?

7 A. No.

8 Q. You've never -- you have no experience  
9 about dye placement and press brake?

10 A. No.

11 Q. Okay. I'm looking at the photograph on  
12 Exhibit 3, why is a photo like this taken?

13 A. For recordkeeping purposes, put in the  
14 sales file just as a record.

15 Q. How is it that we can authenticate that  
16 this is an actual photo of the 70-6 that was  
17 involved in the accident?

18 MR. ROBINSON: I'll object to the form of the  
19 question. I don't know what you mean by that.  
20 Authentication as a legal meaning?

21 BY MR. HARTMAN:

22 Q. Okay. I'll try to correct it.

23 How is it that you know that this is a  
24 photo of the 70-6 involved in the accident?

1       A. Because it's in a sales file and I believe  
2 the original or the Polaroid that was used at the  
3 time had the serial number written on the bottom of  
4 it.

5       MR. ROBINSON: And on the back.

6       MR. HARTMAN: Okay.

7       MR. ROBINSON: For the record I've produced the  
8 original sales file to Mr. Hartman prior to this  
9 deposition. We previously provided a copy of it  
10 and the original is here with us. And we now have  
11 the Polaroid. Well, we've had the Polaroid  
12 available to us since we began the deposition this  
13 morning.

14       MR. HARTMAN: Right. I did have this photo,  
15 but this wasn't on here.

16       MR. ROBINSON: What were you representing was  
17 not on there?

18       MR. HARTMAN: The 2176.

19       MR. ROBINSON: Bear with me one second.

20       MR. HARTMAN: I'm just saying, it doesn't  
21 matter.

22       MR. ROBINSON: I just want to check my sales  
23 file that I produced to you. That may be the case,  
24 I just --

1 MR. HARTMAN: I'm going to ask him a question.

2 MR. ROBINSON: We're going to wait, please.

3 MR. HARTMAN: All I want ask --

4 MR. ROBINSON: I'll only be a couple of  
5 seconds. The copy that I provided to you does, in  
6 fact, have 2176 at the bottom of it.

7 MR. HARTMAN: Does it?

8 MR. ROBINSON: Yes.

9 BY MR. HARTMAN:

10 Q. I'm going to show you photographs 1 and 2.  
11 Do you recognize the machine in those photographs?

12 A. I recognize it's a Heim product. It  
13 appears to be a 70-6 that we're talking about,  
14 2176.

15 Q. Other than -- do you see the yellow rods  
16 on both sides of the machine?

17 A. Yes.

18 Q. Okay. And you see the dye and tool on  
19 the -- in the ram area?

20 A. Correct.

21 Q. Other than the rods and the dye in the ram  
22 area, is there anything added to that machine that  
23 should not be added to the machine that you could  
24 determine?

1 MR. ROBINSON: I'll object to the form of that  
2 question.

3 THE WITNESS: We supply the machine without dye  
4 and the dye -- so that's --

5 BY MR. HARTMAN:

6 Q. Those are light curtains?

7 A. Light curtains, this was not supplied with  
8 the machine.

9 Q. You're pointing to the Pedistal?

10 A. To the Pedistal. The foot switch I can  
11 only make an assumption that, you know, it's a  
12 typical. Whether or not it's original or not I  
13 cannot answer. Other than that it appears to be  
14 the machine.

15 Q. When looking at the front of that machine  
16 is there anything that's been taken off that  
17 machine that you can determine that shouldn't have  
18 been taken off?

19 A. It appears that the tongs are missing.

20 Q. Okay.

21 MR. ROBINSON: Are you asking if there's  
22 anything else?

23 MR. HARTMAN: Yes.

24 THE WITNESS: Not that I can easily recognize

1 from this photo.

2 MR. ROBINSON: Could we identify that as photo.

3 MR. HARTMAN: 1 and 2.

4 BY MR. HARTMAN:

5 Q. So other than the light curtain, the tongs  
6 missing, the dyes that are in the machine and the  
7 Pedistal, the machine appears as it -- in the  
8 pictures as it did when it was manufactured?

9 MR. ROBINSON: Objection, this witness has  
10 indicated to you that he can't tell if the foot  
11 pedal is what would have been provided with the  
12 press brake. And you have conspicuously left that  
13 out of your question, that's the type of game that  
14 I've been referring to.

15 MR. HARTMAN: I'm talking about the machine.

16 MR. ROBINSON: Well, whatever you want to say,  
17 but that's the type of game that I've been seeing  
18 played with these questions.

19 MR. HARTMAN: Well, your witness if we're  
20 talking about the foot pedal said it appears to be  
21 the type of foot pedal that was provided with the  
22 machine. He said it not once, not twice.

23 MR. ROBINSON: You can testify all you want as  
24 to what his testimony was. You've never even asked

1 him the question. I'm going to ask it because you  
2 haven't asked it, you've instead tried to get that  
3 through means of showing him a photograph,  
4 restating his testimony and then leaving out his  
5 comment about that he cannot tell you that that is  
6 the foot pedal that accompanied the machine at the  
7 time of sale. You've been very misleading.

8 MR. HARTMAN: No.

9 MR. ROBINSON: There's no need for us to debate  
10 it.

11 MR. HARTMAN: Then why don't you keep quiet.

12 MR. ROBINSON: I need to make the objection to  
13 preserve later on.

14 MR. HARTMAN: There's no need to make the type  
15 of objections you're making, you know it.

16 MR. ROBINSON: No, I don't.

17 MR. HARTMAN: If you need to bill hours that  
18 bad, my God.

19 MR. ROBINSON: Once again that type of comment  
20 is very unprofessional, it's very unnecessary and  
21 it really doesn't help this process at all. I  
22 don't even know what you're referring to when you  
23 say may that there may be some need for me to bill  
24 hours. That doesn't even make any sense to me.

1 But let's continue with your questions. I just  
2 want to make sure I bring these up so that the  
3 Court is aware of what's taking place here.

4 MR. HARTMAN: Paul, be my guest here.

5 BY MR. HARTMAN:

6 Q. With regard to the foot pedal, you've  
7 indicated that you cannot precisely tell that that  
8 is the foot pedal that was supplied with the  
9 machine, correct?

10 A. Correct.

11 Q. You did testify that it does appear to be  
12 the general type of foot pedal that would have been  
13 supplied with this machine, am I correct?

14 A. Correct.

15 Q. The original foot pedal would have been  
16 orange, this is orange, correct?

17 MR. ROBINSON: Actually he's indicated to you  
18 he wasn't really sure. He thinks it might have  
19 been orange, but he wasn't there and he doesn't  
20 know.

21 MR. HARTMAN: He said it was orange, he doesn't  
22 know if the cord was yellow. Paul, if you want to  
23 testify, at least get it right.

24 MR. ROBINSON: I believe when I raise the

1 objection to your comment that he specifically said  
2 he doesn't know.

3 BY MR. HARTMAN:

4 Q. What color do you understand the foot  
5 pedal to be that accompanied the 1978 70-6?

6 A. I believe it would be orange.

7 Q. And you think the cord may have been  
8 yellow, am I correct?

9 A. Correct.

10 Q. And the foot pedal that would have been  
11 supplied with this particular machine would have  
12 had an opening such as the opening that exists in  
13 photograph 2, am I correct?

14 A. Correct.

15 Q. So that you can slide your foot in and  
16 out, am I correct?

17 A. Correct.

18 Q. And when you slide your foot in there  
19 would have been a switch that you would depress to  
20 operate the press brake, am I correct?

21 A. It would activate the press brake, yes.

22 Q. Do you know on the 70-6 the time it takes  
23 to stop the ram as it's going down?

24 A. No.

1 Q. Am I correct that that's a calculation  
2 that you can get from Heim when you purchase the  
3 machine?

4 MR. ROBINSON: At what height, Mr. Hartman?

5 MR. HARTMAN: Just let me --

6 MR. ROBINSON: I object to the form of the  
7 question.

8 BY MR. HARTMAN:

9 Q. Am I correct that can you get stopping  
10 times?

11 A. Correct.

12 Q. And when I say stopping times, sir, I'm  
13 talking about like the time it takes -- how far the  
14 ram moves if you hit the emergency stop, boom?

15 A. Correct.

16 Q. I'm not talking about stopping time --  
17 stopping time is once you get the signals stop, how  
18 long it takes to stop, correct?

19 A. Correct.

20 Q. And that's not dependent on height, is it?

21 A. No.

22 Q. It's dependent on the response to the  
23 signal to stop and how quick the machine can  
24 respond to that, am I correct?

1       A. Yes. It's a function of all the  
2 associated mechanism --

3       Q. Right.

4       A. -- for the press brake, yes.

5       Q. Once it gets the signal stop, how long it  
6 takes from getting that signal -- how long it takes  
7 for pressing that signal button to the time it  
8 stops, correct?

9       A. Correct.

10      Q. It has no function of how high it is, does  
11 it?

12      A. Correct.

13      Q. Do you know how many claims -- how many --  
14 strike that.

15           Do you know how many people have alleged  
16 to have been injured by Heim's press brakes?

17      MR. ROBINSON: At any time?

18 BY MR. HARTMAN:

19      Q. For the whole thousand that have been  
20 manufactured, do you know?

21      A. No.

22      Q. Do you know how many people have claimed  
23 to have been injured by press brakes manufactured  
24 before 1979?

1 A. No.

2 Q. When you were working for Clearing, as I  
3 believe it was the sales manager, am I correct?

4 A. Correct.

5 Q. Were you aware of individuals being  
6 injured in power presses?

7 A. Yes.

8 Q. Okay. When you were working for Clearing,  
9 were you aware of people being injured in brake  
10 presses?

11 A. On Clearing brakes or just general brakes  
12 anywhere?

13 Q. Brake presses anywhere.

14 A. Yes.

15 Q. Okay. And would you agree that most of  
16 the people that are injured on either power presses  
17 or brake presses are injured at the point of  
18 operation?

19 MR. ROBINSON: Object to the form of the  
20 question. I don't know if this witness has done  
21 any type of analysis of all brake press or power  
22 press injuries.

23 BY MR. HARTMAN:

24 Q. In your personal history and

1 understanding.

2 A. I would believe most cases were point of  
3 operation related.

4 Q. You've testified earlier I think it was  
5 that when we talk about safeguarding by distance,  
6 I'm going from recall, I'm not trying to put words  
7 in your mouth, but was it 63 or 66 inches per  
8 second?

9 A. I'm not accurate. I'm -- here, my  
10 estimate would be 63 feet per second seems to be  
11 the number that sticks in my mind.

12 Q. 63 feet per second?

13 A. Yes, which is human motion, I believe.

14 Q. And is that a standard number used in the  
15 industry for safeguarding by distance?

16 MR. ROBINSON: Hold on. Object to the form.

17 He's just indicated he's not sure. He believes  
18 that's sticking in his mind and now you're trying  
19 to ask it as if that's the way it is.

20 BY MR. HARTMAN:

21 Q. Am I correct, sir, that there's a  
22 recognized number that's utilized for safeguarding  
23 by distance?

24 A. Correct.

1 MR. ROBINSON: We have been through this at  
2 length.

3 MR. HARTMAN: That's fine. Maybe I want to  
4 clear up a couple of things, and I'm allowed to do  
5 that, thank you.

6 MR. ROBINSON: Objection, asked and answered is  
7 the problem. We've been through this.

8 MR. HARTMAN: Not exactly we haven't.

9 MR. ROBINSON: Okay.

10 BY MR. HARTMAN:

11 Q. What is the maximum throat opening of the  
12 70-6?

13 A. I don't know.

14 Q. Okay. And on Deposition Exhibit No. 2 is  
15 this press brake a 70-6 or is this a generic  
16 picture of a press brake?

17 A. It's a generic picture of a press brake on  
18 this cover.

19 Q. And the reason you know that -- the reason  
20 you're testifying that Exhibit No. 3 is a 70-6 is  
21 because there's a serial number that's been  
22 associated with that press brake, that picture, am  
23 I correct?

24 A. Correct.

1 Q. Looking at it is there a way can you tell  
2 if it's a 70-6 other than the handwritten number?

3 A. No.

4 Q. This instruction book that's marked as  
5 Exhibit No. 2, is this the instruction book that  
6 would accompany all mechanical press brakes  
7 manufactured by Heim?

8 A. Yes.

9 Q. So you don't have a different book for a  
10 200 ton as opposed to an 80 ton?

11 A. No.

12 Q. It says on Page 2 of the manual that the  
13 book was compiled and written by Technical  
14 Graphics. Who is Technical Graphics?

15 A. I do not know.

16 Q. When it says compiled and written by, do  
17 you know what that means?

18 A. No.

19 Q. Okay. Do you know if Heim supplied the  
20 information to them or they wrote this up and Heim  
21 just bought a book?

22 A. I do not know.

23 Q. On Page 3 at the top of the page, it says,  
24 although these instructions are written

1 specifically for press brakes, the same general  
2 rule is applied to punch presses and other  
3 machinery in this category. Do you agree with  
4 that?

5 A. Yes.

6 Q. Okay. What are the other machines in this  
7 category that it refers to?

8 A. I would say it would be typical of an  
9 ironworker, which is a similar type of punching  
10 machine, just as an example.

11 Q. Could this book -- would this book --  
12 strike that.

13 Would this book accompany punch presses  
14 sold by Heim?

15 A. Say that again.

16 Q. Would this book accompany punch presses  
17 sold by Heim?

18 A. No.

19 Q. There's a different book?

20 A. Yes.

21 Q. On Page 5 it discusses point of operation  
22 safety devices. Do you see that?

23 A. Yeah.

24 Q. Do you see where it's blanked out in

1 certain areas, the black lines?

2 A. I think it's a -- not typically blacked  
3 out, there's a shading on the original copy as  
4 opposed to a reproduction.

5 Q. That's the information I need, that's part  
6 of the information I need.

7 MR. ROBINSON: That's what I told you before we  
8 began the deposition I would be pleased to look for  
9 it and see if I can get it for you.

10 MR. HARTMAN: I'm just pointing it out to him.

11 MR. ROBINSON: I understand that.

12 BY MR. HARTMAN:

13 Q. On Page 9 the last paragraph in the middle  
14 of the page talks about --

15 A. In the interest of both.

16 Q. In the interest of both present and  
17 prospective press users, we your attention to some  
18 of these modern safety packages, incorporate them  
19 into your new machines or use them to replace  
20 original equipment on your older models. What  
21 safety packages are being referred to?

22 A. The intent here is pre-OSHA machines,  
23 those machines built before ANSI and OSHA  
24 standards, 1972, that we would encourage people to

1 update those machines in compliance.

2 Q. What are the modern safety packages that  
3 were available?

4 A. Complete new control panels. The other  
5 machines -- pre-1972 machines would have not met  
6 those standards, such as redundancy, dual valves,  
7 palm buttons, current operation, spacing all of  
8 that.

9 Q. Are there any of the safety devices point  
10 of operation protects other than the dual palm  
11 switches?

12 A. No, we're talking about control  
13 reliability for the press.

14 Q. On and off, up and down?

15 A. All of those that relate to the press, not  
16 point of operation.

17 Q. Protection?

18 A. Protection, yes.

19 Q. I'm trying to remember not to do this.

20 On Page 18 at the bottom of the right  
21 there's a picture of a foot pedal?

22 A. Page 18, yes.

23 Q. Is that the basic type of foot pedal that  
24 would have been offered for the machine in 1978?

1 A. It appears to be.

2 Q. Have you ever operated a press brake?

3 A. You need to be a little more specific. As  
4 an operator for?

5 Q. Just once, one time.

6 A. Certainly push the buttons on a press  
7 brake, yes.

8 Q. Have you ever put a piece in the machine?

9 A. No. Take it back, yes.

10 Q. Have you ever had your hand in the dye  
11 area of the machine?

12 A. No.

13 Q. Is that because you follow the no hands  
14 and dye area method of operator protection?

15 A. Yes.

16 Q. Have you seen anybody place their hands in  
17 the dye area of a press brake?

18 A. Not that I recall.

19 Q. What is a motion detector indicator light?

20 A. A motion detector indicator light is a  
21 visual for an operator or maintenance, it would be  
22 a red light, it would more than likely shut down  
23 the piece of equipment we're talking about and the  
24 indication would be that the press over travel the

1 top stop.

2 Q. So it determines that there's an over  
3 traveling of the press stops the machine and a  
4 light comes on?

5 A. Correct.

6 Q. What is a point of operation guard  
7 interlock?

8 A. That would be an electrical device that,  
9 for example, would be perhaps under an expanded  
10 metal guard as a point of operation, if the gate  
11 was opened that it would make the press  
12 inoperative.

13 Q. Am I correct that light curtains have such  
14 a point of operation guard interlock as well, that  
15 if the light curtain is not on it will prevent the  
16 device from -- the press brake from operating, am I  
17 correct?

18 MR. ROBINSON: I'll object to the form.

19 THE WITNESS: The intent if you break the beam  
20 it renders the press inoperative -- press brake  
21 rather.

22 BY MR. HARTMAN:

23 Q. If it's set up to operate on a light  
24 curtain, and the light curtain for some reason

1 fails to operate, isn't there -- am I correct that  
2 the machine will not function in that situation?

3 A. I believe that's correct.

4 Q. And that would be a point of operation  
5 guard interlock as well, am I correct?

6 A. Correct.

7 Q. Are you aware of any analysis done by Heim  
8 to study accidents involving inadvertent operation  
9 of a machine by hitting the foot pedal?

10 A. No.

11 Q. Are you aware of any studies done anywhere  
12 that evaluate that type of situation?

13 A. Not that I'm aware of.

14 Q. Are you aware of inadvertent contact with  
15 the foot pedal causing an accident?

16 A. I believe it's possible.

17 Q. Have you ever heard of such an accident  
18 occurring?

19 A. I'm not aware of a particular incident.

20 Q. What is the purpose of the manual?

21 MR. ROBINSON: Object to the form of the  
22 question.

23 BY MR. HARTMAN:

24 Q. Okay. You can answer.

1       A. I believe the manual is to give  
2 information to the owner of the purchase of a  
3 machine on its operation and good practices for  
4 maintenances and operation of the machine.

5       Q. Is the manual to contain -- strike that.

6                  Has Heim evaluated any ergonomic studies  
7 with regard to the use of the press brake?

8       A. Not that I'm aware of.

9       Q. Has Heim done any ergonomic studies with  
10 regard to the design and use of any of its press  
11 brakes?

12      A. Not that I'm aware of.

13      Q. Has Heim ever consulted or reviewed any  
14 such -- ergonomic studies as it relates to safe  
15 operation of press brakes?

16      A. Not that I'm aware of.

17      Q. With regard to the duties placed on the  
18 manufacturer under the ANSI code for press brakes,  
19 does Heim consider it its obligation to follow  
20 those requirements?

21      A. I believe it's an obligation, yes. The  
22 obligation is to build the best machine that we can  
23 and obviously the safest machine using whatever the  
24 latest technology is.

1 Q. So Heim's good manufacturing processes  
2 would require that Heim comply with the ANSI  
3 standard as it applies to the manufacturer's  
4 duties, correct?

5 A. Correct.

6 Q. Did Heim have any input into the creation  
7 of the ANSI standard for press brakes?

8 A. I don't believe so.

9 Q. Did it comment, did it provide any  
10 comments to ANSI?

11 A. Not that I'm aware of.

12 MR. ROBINSON: Which ANSI -- which one are you  
13 referring to, which year?

14 MR. HARTMAN: The press brake standard.

15 BY MR. HARTMAN:

16 Q. Any year?

17 A. I don't believe so.

18 Q. From 1973 to the present?

19 A. I don't believe so.

20 Q. Is there an individual that is assigned  
21 the responsibility at Heim to monitor the ANSI  
22 standard that applies to press brakes?

23 A. It's pretty much an engineering function,  
24 falls under design criteria.

1 Q. Do you know what a floating blank is in a  
2 light curtain?

3 A. I believe it to be a muting of certain  
4 lights in the bank of lights.

5 Q. Have you ever seen a floating blank work  
6 in a light curtain? Have you ever seen it at work  
7 in a light curtain?

8 A. Where the light curtain is muted and a  
9 piece put in?

10 Q. Yes.

11 A. Yes.

12 Q. Does it work?

13 A. I believe it does.

14 Q. Would it work with regard to light presses  
15 put into a press brake?

16 MR. ROBINSON: Object to the form. What use?

17 BY MR. HARTMAN:

18 Q. When you have a piece of material that  
19 extends out beyond the light curtain, would it  
20 work?

21 A. The intent is to mute the distance of the  
22 material to enter the dye.

23 Q. Correct. So if the piece is too long it  
24 would extend out beyond the light curtain, you

1 slide it in through that muted spot --

2 A. It would break the beam.

3 Q. It doesn't break the beam?

4 A. The material would not break the beam.

5 Q. If your hand --

6 A. Correct.

7 Q. By muting that allows you to put in a  
8 piece of material that extends beyond a light  
9 curtain without breaking the beam, having the  
10 machine work and providing operator protection?

11 A. Correct.

12 Q. Does Heim sell press brakes to purchasers  
13 in countries other than the United States?

14 A. We have sold equipment in other parts of  
15 the world, yes.

16 Q. Europe?

17 A. I can't remember. I believe so.

18 Q. Has Heim always sold to jurisdictions --  
19 its products to jurisdictions other than the United  
20 States?

21 A. Say that again.

22 Q. Has Heim always sold its product to  
23 purchasers in places other than the United States?

24 MR. ROBINSON: I'll object to the form. What

1 do you mean always? Since it began?

2 MR. HARTMAN: Yeah, since it began.

3 THE WITNESS: We will take orders anywhere in  
4 the world, yes.

5 BY MR. HARTMAN:

6 Q. Does Heim ship press brakes to Europe?

7 A. I'd have to look at the records. I don't  
8 recall of a specific one, but I wouldn't be  
9 surprised if there was.

10 MR. ROBINSON: He's asking you if you know if  
11 one occurred.

12 THE WITNESS: No.

13 BY MR. HARTMAN:

14 Q. Is there a compliance officer at Heim that  
15 evaluates the European standards for press brakes?

16 A. They're -- I'm aware of a European  
17 standard, yes.

18 Q. Do Heim press brakes conform to the  
19 European standard?

20 MR. ROBINSON: Object to the form of the  
21 question.

22 THE WITNESS: I do not know. I don't have a  
23 copy of the original -- of the European standards.

24

1 BY MR. HARTMAN:

2 Q. Who would know that?

3 A. We probably would have a copy in the  
4 engineering.

5 MR. HARTMAN: I would ask that you provide me.

6 MR. ROBINSON: Put that in your writing. If  
7 you're asking for standards presently for today I  
8 can't imagine how that would be relevant. Please,  
9 I should say, Mr. Hartman, I did not mean to be  
10 rude in the way that I asked him to put that in a  
11 formal request. I don't even need it in a formal  
12 request, just a letter request.

13 BY MR. HARTMAN:

14 Q. Do you know what ISO is?

15 A. It escapes me at the moment.

16 Q. It's a standard, I believe.

17 A. Yeah, I can't remember what the initials  
18 are.

19 Q. Has Roselle always been part of the Heim  
20 Corporation?

21 A. No.

22 Q. When did Heim and Roselle form -- join  
23 together?

24 A. It goes back to historical. Roselle was a

1 press product that -- I don't recall, but -- let's  
2 see, the Heim Corporation bought Roselle in 1984.  
3 You need to go to the family for its history.

4 Q. Is Roselle a foreign corporation or  
5 European company or is it a US company?

6 A. Domestic.

7 Q. Domestic?

8 A. Yes.

9 Q. Was it domestic at the time of the  
10 purchase?

11 A. Yes.

12 Q. Roselle seems to be kind of like a  
13 European name.

14 A. French.

15 Q. With regard to my Notice of Corporate  
16 Designated Deposition, your attorney -- I should  
17 say Heim has appointed you to testify as behalf.  
18 I'm going to go over each of the areas that are  
19 outlined. I'm going to have to read them for the  
20 court reporter.

21 Number one says, ask them to appoint an  
22 individual to testify regarding the design,  
23 manufacture, assembly, sale, including the purpose  
24 that the product was to be used and the foreseeable

1 uses of the product and distribution of the product  
2 or similar product.

3 Am I correct, sir, that you have no  
4 information today as to the design process of this  
5 particular machine?

6 MR. ROBINSON: I'm going to object to the form  
7 of the question. The witness has given a lot of  
8 information that may be considered design related  
9 and that wasn't -- do you plan on going -- reading  
10 each of the 37 areas that are set forth in the  
11 notice of deposition and asking these types of  
12 questions?

13 MR. HARTMAN: The ones I think are important.

14 MR. ROBINSON: Pardon me?

15 MR. HARTMAN: The ones I think are important.

16 MR. ROBINSON: I object. And I'm instructing  
17 him not to answer. He's given you a lot of  
18 information on the breadth of that question, and  
19 now to suggest that he hasn't given you any  
20 information on the substance of that question is  
21 inappropriate. So I'm instructing him not to  
22 answer the question.

23 MR. HARTMAN: I'm not suggesting, I'm asking  
24 the question. He says yes or no, I mean, it's real

1 simple.

2 MR. ROBINSON: So is my instruction.

3 (Whereupon, a short break was taken.)

4 BY MR. HARTMAN:

5 Q. Prior to '78 did Heim ever undertake to do  
6 an analysis as to what types of uses of the press  
7 brake would be lost by the installation of a light  
8 curtain?

9 A. No.

10 Q. Has any study been done to your knowledge  
11 as to how a light curtain would impact the uses of  
12 a press brake?

13 A. No.

14 Q. Has any study been done that would analyze  
15 the loss of types of uses on a press brake once a  
16 light curtain has been installed?

17 A. By Heim?

18 Q. By anyone that you know of.

19 A. No.

20 MR. ROBINSON: Not that you know?

21 THE WITNESS: Not that I know.

22 MR. ROBINSON: I want to make sure that when  
23 you answer we know that you're saying, no, none  
24 have been done or you're not aware of any.

1 THE WITNESS: I'm not aware of any.

2 BY MR. HARTMAN:

3 Q. The reason I'm asking that question  
4 instead of going through all of them, I'm going to  
5 try to cut this short, is No. 31 of my notice of  
6 deposition asks Heim to appoint somebody that can  
7 testify to all information, research, testing and  
8 development, analysis or compilation of data  
9 regarding any risk benefits analysis concerning the  
10 implementation, design, manufacturer, production  
11 and/or availability of point of operation  
12 protection mechanisms on press brakes. So Heim has  
13 appointed you to testify regarding that today, am I  
14 correct?

15 MR. ROBINSON: No, Heim has appointed him to  
16 testify on how we can read some of these  
17 objection -- some of these areas of inquiry. By  
18 appointing someone on an area that you have  
19 identified does not mean that there is such an area  
20 that you have identified. If you have a study that  
21 exists and you want to show it to Mr. Mase, then by  
22 all means. But to sit here and to suggest that  
23 because he doesn't have any information on the  
24 research and testing in this area and, therefore,

1 we've appointed someone that doesn't have  
2 information on that, it's wrong.

3 MR. HARTMAN: No, I've asked you to -- my  
4 notice of corporate designee deposition  
5 specifically outlines the areas I'm going to  
6 request and ask information on.

7 MR. ROBINSON: Sure.

8 MR. HARTMAN: That's one of the areas you've  
9 brought this gentleman here to talk about that  
10 area. Now I'm asking a question.

11 BY MR. HARTMAN:

12 Q. Do you have information relating to the  
13 items in paragraph 31?

14 MR. ROBINSON: Well, I'll object to that.  
15 You're asking it differently. 31 is almost  
16 unintelligible as written, but you've asked your  
17 question and he's given you the answer that he is  
18 not aware of any such testing. You've asked him  
19 for testing performed by Heim, and you've asked him  
20 for testing performed by anyone, and he's indicated  
21 he is not aware of it. So what else can we do but  
22 move on?

23 MR. HARTMAN: Well, Paul, I need to know --  
24 have someone from Heim say that what Heim knows as

1 a corporation, and that's what he's here for.

2 MR. ROBINSON: What testing are you talking  
3 about?

4 MR. HARTMAN: I don't know.

5 MR. ROBINSON: So we're engaging in this  
6 fantasy land discussion of testing that we don't  
7 know exists. So how can I tell you here's someone  
8 from Heim to talk about an issue and we don't even  
9 know if that issue exists?

10 MR. HARTMAN: Because Heim would know whether  
11 or not it did research testing or development or  
12 analyze the compilation of data regarding this.

13 MR. ROBINSON: I would suggest that you and I  
14 can have that discussion outside of this  
15 deposition.

16 MR. HARTMAN: Well, no, I'm here, I've spent  
17 money to be here.

18 MR. ROBINSON: No, you really didn't, you're  
19 out here on your daughter's basketball event and we  
20 were kind enough to schedule it at the same time.  
21 You've twice now said that this is on your personal  
22 dime and, in fact, you are combining the trips,  
23 which is completely appropriate, but to suggest  
24 that you've come out here at our expense when

1 you're saying for 4 days for a basketball event,  
2 don't make it sound like we made you spend money on  
3 something that you didn't need to.

4                   And additionally, you're required under  
5 the rules to come to Chicago, where the principle  
6 place of business is, which you initially fought me  
7 on, until you ultimately did the research and found  
8 out I was right. I just think you're -- the things  
9 that you continuously say are just inappropriate.  
10 So anyways would you continue to ask your  
11 questions.

12                  MR. HARTMAN: I'm here an extra day. I  
13 cancelled a flight that I had to be here just for  
14 the record if it matters. I did pay for this  
15 out-of-pocket to be here for this deposition. You  
16 were to appoint somebody to testify regarding that.  
17 This is the gentleman you've produced.

18 BY MR. HARTMAN:

19                  Q. Does Heim have information relating to a  
20 what impact a light curtain would have on the uses  
21 of its brake presses?

22                  MR. ROBINSON: What time, Mr. Hartman, in what  
23 time frame?

24

1 BY MR. HARTMAN:

2 Q. Prior to 1978.

3 A. I'm not aware of any.

4 MR. ROBINSON: That's what he said before.

5 Would you please ask another question?

6 BY MR. HARTMAN:

7 Q. Does Heim have any information from 1978  
8 to the present relating to the effect a light  
9 curtain would have on the utilization of its brake  
10 presses?

11 A. I don't believe so.

12 MR. ROBINSON: I'll object to the form of the  
13 question.

14 MR. HARTMAN: What's the problem with the  
15 question?

16 MR. ROBINSON: Do they have any information?  
17 What does that mean do they have any information?  
18 He's already indicated that the -- well, never  
19 mind. I think there's a significant problem with  
20 your question when you say does it have any  
21 information. What does that mean? Has anyone at  
22 Heim ever heard that you not being able to use a  
23 light curtain for certain applications. You and I  
24 heard that from the manufacturing employees

1 themselves.

2 MR. HARTMAN: We're deposing Heim today, Paul.

3 MR. ROBINSON: That comment really doesn't  
4 apply, I understand that. Would you ask your  
5 questions, please?

6 BY MR. HARTMAN:

7 Q. Sir, would it be a fair statement that  
8 Heim doesn't know whether the use of a light  
9 curtain on a press brake would effect the  
10 versatility of the press brake?

11 MR. ROBINSON: Object to the form of that  
12 question. In what application? What press brake?

13 MR. HARTMAN: All the press brakes you're aware  
14 of.

15 MR. ROBINSON: What type of product? There's  
16 so many variables.

17 BY MR. HARTMAN:

18 Q. Across the board.

19 A. Since we manufacture general purpose  
20 machines we're never involved with application so  
21 there would be no reason for us to do a study on  
22 particular applications, we're not a light curtain  
23 manufacturer. Point of operation safety has always  
24 been the responsibility of the end user to provide

1 for a particular application. And since we don't  
2 provide equipment for specific applications, it  
3 seems to be a moot point for us.

4 Q. Does Heim now provide light curtains with  
5 its press brakes if a customer so requests?

6 A. If a customer asks us to provide a light  
7 curtain?

8 Q. Yes.

9 A. I would say that we would provide it but  
10 not mount it.

11 Q. Why not mount it?

12 A. Because we wouldn't know the specific  
13 application which it was going to be used.

14 Q. If you knew the application was going to  
15 be used, would you mount it then?

16 MR. ROBINSON: Object to the form of the  
17 question.

18 BY MR. HARTMAN:

19 Q. Would you have the ability to mount a  
20 light curtain if you knew the application for which  
21 the press brake was going to be used?

22 A. We'd decline.

23 Q. You'd decline?

24 A. (Nonverbal response.)

1 Q. You would never do it?

2 A. Never.

3 MR. ROBINSON: You've answered -- you've said  
4 that you would decline it and you've indicated  
5 before that that's not something that you do or set  
6 up to do. I'm not sure why we keep asking  
7 follow-up questions that have just been asked.

8 BY MR. HARTMAN:

9 Q. Has Heim ever done an analysis as to  
10 whether or not -- strike that.

11 MR. HARTMAN: I'm going to let Mr. Robinson ask  
12 his questions while I review my information.

13 EXAMINATION

14 BY MR. ROBINSON:

15 Q. I'm going to attach as Exhibit 5 a copy of  
16 the sales file pertaining to 70-6, serial number  
17 2176, press brake sold to H B machinery co-in 1978?

18 (Whereupon, Deposition

19 Exhibit No. 5 was marked for  
20 identification.)

21 BY MR. ROBINSON:

22 Q. And Mr. Mase, we have the original file,  
23 the original sales file with us that you brought  
24 with you today pertaining to this particular press

1 brake at issue, is that right?

2 A. Correct.

3 Q. And you also brought the copy that I've  
4 marked. Is the copy that has been marked as  
5 Exhibit 5 a true and correct copy of the original  
6 sales file contained in this original folder?

7 A. I believe so.

8 Q. And have you reviewed this sales file in  
9 preparation for this deposition?

10 A. Yes.

11 Q. I note here in the sales file that there  
12 is a document entitled Assembly Order for Press  
13 Brake, do you see that?

14 A. Correct.

15 Q. Does Heim continue to use a similar type  
16 document when manufacturing a press brake at a  
17 customer's request?

18 A. Yes.

19 Q. And on this particular assembly order  
20 there is a location to indicate whether or not a  
21 palm button has been requested by the purchaser, is  
22 that right?

23 A. Correct.

24 Q. And was a palm button requested by this

1 particular purchaser HB Machinery Co?

2 A. It says no.

3 Q. And does this document tell us whether or  
4 not HB Machinery Co requested a foot switch for  
5 activation of this press brake?

6 A. It's itemized as yes.

7 Q. And would that mean that HB Machinery Co  
8 requested a foot switch for -- to accompany the  
9 sale of this particular press brake?

10 MR. HARTMAN: I'm going to object to the form  
11 of the question because there's nothing in that  
12 document that indicates that there's a request, it  
13 indicates what has been provided with it. The  
14 witness has already testified as a piece of  
15 standard -- a standard piece of equipment that  
16 accompanies all of the press brakes. Go ahead.  
17 I've noted my objection for the record.

18 BY MR. ROBINSON:

19 Q. Does this sales document tell you that the  
20 purchaser, HP Machinery Co, has requested a foot  
21 switch to accompany its purchase of this press  
22 brake?

23 A. Yes.

24 MR. HARTMAN: Are you saying, sir --

1 MR. ROBINSON: Hold on, you're not asking  
2 questions. He's not answering your questions.

3 MR. HARTMAN: You asked questions when I was  
4 asking questions.

5 MR. ROBINSON: I really didn't. You're going  
6 to give me the opportunity to ask him questions,  
7 he's not going answer questions you interject to  
8 right after mine. That's inappropriate in every  
9 sense of a taking of a deposition.

10 BY MR. ROBINSON:

11 Q. Was the press brake that was sold -- all  
12 of my questions relate to the particular press  
13 brake that was sold to HB Machinery Company. Was  
14 it a completed product when sold to HB Machinery?

15 A. A completed product in the sense that as  
16 far as we're concerned does not have -- could not  
17 form a function.

18 Q. Okay. Was it a completed product in the  
19 sense that you could ship it to a company and that  
20 they could begin using it as is?

21 A. No.

22 Q. And what types of work, what types of  
23 additions needed to be added to the press brake by  
24 the purchaser or by the entity to whom it was

1 shipped before it could function?

2       A. I would suspect that the end user would  
3 require a dye for it and would also provide the  
4 point of operation safety required in conjunction  
5 with the operation of that dye and any other  
6 ancillary equipment that the end user would choose,  
7 you know, such as barrier mounts or isolation pads  
8 or certain ancillary equipment such as barrier  
9 mounts, point of operation safety, whatever else,  
10 feeding equipment.

11      Q. Is there any indication in the sales file  
12 that Heim was ever notified as to what particular  
13 uses to which the purchaser or the entirety to whom  
14 it was shipped was going to put to this particular  
15 press brake?

16      A. No indication.

17      Q. Do you understand from your review of the  
18 sales file that the press brake ultimately came  
19 into the possession of Corey Manufacturing a  
20 subsequent purchaser of the press brake?

21      A. Only aware of it through the documents in  
22 the file that would indicate that they were not the  
23 first owner/operator of the machine.

24      Q. Okay. And is there any indication in the

1 files of Heim that would suggest that Heim ever was  
2 notified about the uses to which Corey  
3 Manufacturing was put in this particular press  
4 brake?

5 A. Not that I'm aware of.

6 Q. Is the product -- is the press brake  
7 capable of being used in performing a workable  
8 function at the time it leaves Heim's possession  
9 and without those additions that you've indicated?

10 A. No.

11 Q. Is there a point of operation on the press  
12 brake when it leaves the control of Heim?

13 A. Other than a foot switch or a run bar  
14 station, no, or tongs if you want to consider that.

15 Q. Is there any molding mechanism that  
16 accompanies the press brake at its sales and at the  
17 time the press brake leaves the possession of Heim?  
18 Are there any dyes accompanying the sale?

19 A. No.

20 Q. Are there any tools, tooling dyes  
21 accompanying the sale?

22 A. Not that I'm aware of.

23 Q. Are there any components provided with the  
24 sale of the product that would enable the purchaser

1 to begin forming metal, as you've indicated is the  
2 typical use?

3 A. No.

4 Q. Was that a direct purchase by Afco Lycomie  
5 when the press brake was sold?

6 A. No.

7 MR. HARTMAN: What do you mean by direct  
8 purchase?

9 MR. ROBINSON: You can raise your objection.

10 BY MR. ROBINSON:

11 Q. Did Heim engage in direct sales to end  
12 users in 1978 that you're aware of?

13 A. Sold through distributor network.

14 Q. So is the answer to my question, no, that  
15 they did not directly sell to end users?

16 A. I would say it would be an exception  
17 rather than a rule.

18 Q. Do you know of any situation where that  
19 occurred?

20 A. Not off the top of my head, no.

21 Q. When you say that Heim sold through  
22 distributors, can you describe that process? I  
23 know you alluded to it briefly with Mr. Hartman's  
24 questions, but can you describe that in greater

1 detail as to how that process works?

2 A. What a distributor is?

3 Q. That's a good question. Yes, what a  
4 distributor is.

5 A. A distributor is a sales force that would  
6 be -- in our industry would be a machinery related  
7 company that would have its own sales force that  
8 would call on a customer base in an area of primary  
9 responsibility and they would have the relationship  
10 with an end user to sell product. They would  
11 represent typically in this end of the business  
12 perhaps a brake, a shear, a punch press, feeding  
13 equipment, isolator pads, point of operation safety  
14 devices, numerous ancillary type of equipment.

15 Q. Now, are you familiar with the industry  
16 into your work with numerous manufacturers of press  
17 brakes and familiar with the use of distributors to  
18 act as a middle man for press brakes or presses or  
19 other machinery to go through the distributor and  
20 then ultimately to the end user?

21 A. That would be the typical set up in our  
22 interrogatory.

23 Q. Do the distributors only sell press brakes  
24 manufactured by one particular manufacturer or do

1 they have the entire field, if you will, the entire  
2 trade at their disposal?

3 A. It would be a combination of all. Some  
4 would just represent one, some would have different  
5 types.

6 Q. Has Heim ever had an agreement with the  
7 distributor such that the distributor only sell  
8 Heim products?

9 A. Not that I'm aware of.

10 Q. And did you say that the distributors also  
11 can provide to the end user the point of operation  
12 safety devices?

13 A. It would not be uncommon.

14 Q. And do you know, in fact, that  
15 distributors do sell and supply point of operation  
16 safety devices to end users?

17 A. Distributors, like I said, it would not be  
18 uncommon for distributors to represent a line of  
19 light curtains, barrier guards.

20 Q. And is it the general practice for the end  
21 user to advise the distributors of its needs and  
22 then for the distributor to go out in the industry  
23 and request products that will meet those needs?

24 A. I believe a distributor's goal is to

1 supply a customer all his needs.

2 Q. Is it set up such that a distributor is  
3 sort of lick a one-stop shopping, that the end user  
4 will go to that distributor and obtain all of its  
5 needs for a particular product, including a press  
6 brake?

7 A. I think that would be convenient for the  
8 end user.

9 Q. And is that how you've seen it work  
10 before?

11 A. Typically.

12 Q. Has Heim ever selected a point of  
13 operation safety device for an end user?

14 A. Say that again.

15 Q. Has Heim ever selected the appropriate  
16 type of point of operation safety device that an  
17 end user should use for its particular application?

18 A. Not that I'm aware of.

19 Q. Does Heim even learn of the end use for  
20 the particular press brake during the normal sale?

21 A. Typically not.

22 Q. How many bending and molding functions is  
23 the model 70-6 serial number 2176 press brake  
24 capable of performing?